

equal to 35 percent of the aggregate amount contributed by the employer to medical savings accounts of employees for taxable years of such employees ending with or within such calendar year.

"(c) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) EMPLOYER REQUIRED To MAKE COMPARABLE MSA CONTRIBUTIONS FOR ALL PARTICIPATING EMPLOYEES.—

"(1) IN GENERAL.—An employer meets the requirements of this subsection for any calendar year if the employer makes available comparable contributions to the medical savings accounts of all comparable participating employees for each coverage period during such calendar year.

"(2) COMPARABLE CONTRIBUTIONS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term "comparable contributions" means

"(i) which are the same amount, or
 "(ii) which are the same percentage of the annual deductible limit under the high deductible health plan covering the employees.

"(B) PART-YEAR EMPLOYEES.—In the case of an employee who is employed by the employer for only a portion of the calendar year, a contribution to the medical savings account of such employee shall be treated as comparable if it is an amount which bears the same ratio to the comparable amount (determined without regard to this subparagraph) as such portion bears to the entire calendar year.

"(3) COMPARABLE PARTICIPATING EMPLOYEES.—For purposes

of paragraph (1), the term "comparable participating employees" means all employees—

"(A) who are eligible individuals covered under any high deductible health plan of the employer, and

"(B) who have the same category of coverage. For purposes of subparagraph (B), the categories of coverage are self-only and family coverage.

"(4) PART-TIME EMPLOYEES.—

"(A) IN GENERAL.—Paragraph (3) shall be applied separately with respect to part-time employees and other

employees.

"(R) PART-TIME EMPLOYEE.—For purposes of
subnara-
graph (A) the term "part-time employee"
means any
employee who is customarily employed for
fewer than 30
hours per week.

"(e) CONTROLLED GROUPS.—For purposes of this
section all
persons treated as a single employer under
subsection (h) (c)
(m) or (o) of section 414 shall be treated as 1
employer.

"(f) DEFINITIONS.—Terms used in this section
which are also
used in section 220 have the respective meanings
given such terms
in section 220."

(B) CLERICAL AMENDMENT.—The table of
sections for
chapter 43 is amended by adding after the
item relating
to section 4980D the following new item:

"Sec. 4980E. Failure of employer to make comparable medical
savings account con-
tributions."